No. 78-278

IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

ESTABAN TORRES, CONSERVATOR OF THE ESTATE OF AMALIA TORRES, INCOMPETENT,

Appellant,

vs.

STATE OF ILLINOIS,

Appellee.

From the Supreme Court of Illinois

JURISDICTIONAL STATEMENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitution and Statutes

Books

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NO.

ESTABAN TORRES, CONSERVATOR OF THE ESTATE OF AMALIA TORRES, INCOMPETENT,

Appellant,

VS.

STATE OF ILLINOIS,

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From the Supreme Court of Illinois

JURISDICTIONAL STATEMENT

REPORTED OPINIONS

The opinion of the Circuit Court of Bureau County was not officially reported, but is appended as Exhibit A to this statement. The opinion of the Appellate Court of Illinois, Third District, was officially reported in 56 Ill. App. 3d 1003, 372 N.E. 2d 445, and the opinion is attached as Exhibit B. The Supreme Court of Illinois denied petition for leave to appeal and did not render any opinion; a copy of the notification of denial is appended as Exhibit C.

STATEMENT OF GROUNDS FOR JURISDICTION

On September 30, 1970, Amalia Torres was injured in an automobile accident near DePue, Illinois. As a result of the accident she sustained fractures, serious and permanent brain damage, and at the present time is physically and mentally incompetent as a result of the accident. A conservator was appointed for her benefit and has brought this litigation.

On the date of the accident there was in force in the State of Illinois a statute establishing the Illinois Court of Claims which provided as follows:

> The Court shall have exclusive jurisdiction to hear and determine . . . all claims against the State for damages in cases sounding in tort, . . . provided that an award for damages in a case sounding in tort shall not exceed the sum of $25,000.00 to or for the benefit of any claimant.

This statute is contained in Illinois Revised Statutes, Ch. 37 § 439.8 (1969) and the full text is set out verbatim and included herein as Exhibit D.

This cause was filed on behalf of Amalia Torres in the Circuit Court of Bureau County contesting the maximum limitation on damages contained in this statute on the basis of the constitutional rights of due process and equal protection. The trial court dismissed the complaint and entered judgment on behalf of the defendant State of Illinois and the Appellate Court affirmed.

The Supreme Court of Illinois denied petition for leave to appeal on May 26, 1978. The notice of appeal to this Court was filed on July 27, 1978, in the Supreme Court of Illinois.

Jurisdiction of this Court is conferred by 28 U.S.C. 1257 (2) which states final judgments or decrees rendered by the highest court of a state in which a decision could be had may be reviewed by the Supreme Court as follows:

> (2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

The Appellate Court of Illinois, Third District, and the Supreme Court of Illinois have decided that the statute in question is valid, even though the appellant challenged the statute on the basis of its being repugnant to the Constitution of the United States. It has previously been decided by this Court that where a final decision of a state court has sustained the validity of a state statute challenged on federal constitutional grounds, an appeal to the Supreme Court of the United States lies as a matter of right. *Huffman* v. *Pursue, Ltd.*, 420 U.S. 592 (1975), *Cohen* v. *California*, 403 U.S. 15 (1971).

At all stages of this litigation, the appellant has claimed that the Illinois statute in question was in violation of the due process and equal protection clauses of the Constitution of the United States. This claim was rejected by the Circuit, Appellate and Supreme Court of Illinois.

A multitude of cases decided by this Court indicate that where the highest court of a state determines that a state statute did not violate the due process and equal protection clauses, the Supreme Court of the United States has jurisdiction of the appeal. *Winters* v. *People of State of N.Y.*, 333 U.S. 507 (1948), *Blodgett* v. *Silberman*, 277 U.S. 1 (1928), *Miller* v. *Schoene*, 276 U.S. 272 (1928), *Northern Pacific Railway Co.* v. *Department of Public Works of*

Washington, 268 U.S. 39 (1925), *Kansas City Southern Railway Co.* v. *Road Improvement District No. 3 of Sevier County,* 266 U.S. 379 (1924), *Buefield, etc. Improvement Co.* v. *Public Service Commission,* 262 U.S. 679 (1923), *Darling* v. *Newport News,* 249 U.S. 540 (1919), *American Oil Co.* v. *Neill,* 380 U.S. 451 (1965).

A copy of the notice of appeal filed in the Supreme Court of Illinois on July 27, 1978, is attached and marked as Exhibit E.

QUESTION PRESENTED BY APPEAL

The question presented for review in this case is whether the $25,000 maximum limitation on tort damages contained in the Illinois statute is in violation of due process and equal protection rights of Amalia Torres guaranteed by the United States Constitution, Amendments V and XIV, § 1.

STATEMENT OF FACTS

After the accident in this case, a complaint was filed in the Illinois Court of Claims against the State of Illinois. The Illinois Supreme Court had previously held that a person was prohibited from contesting the limitation previously described without first proceeding thru the Illinois Court of Claims. *Edelen* v. *Hogsett,* 44 Ill. 2d 215, 254 N.E. 2d 435 (1969).

On July 28, 1976, an award was entered on behalf of the plaintiff and against the State of Illinois in the amount of $25,000, the maximum award allowable pursuant to the Illinois statute. Shortly thereafter this cause was filed in the Circuit Court of Bureau County contesting the maximum limitation on damages in the Illinois statute.

The original complaint claimed that the statutory limitation was in violation of the constitutional rights of the appellant as contained in the Fifth and Fourteenth Amendments to the United States Constitution, a violation of due process and equal protection of law. A copy of the complaint is appended as Exhibit F. Thereafter, the complaint was amended to state that the maximum limitation was also in violation of inherent and inalienable rights of the plaintiff under the common law. The amendment to the complaint is included here as Exhibit G.

The State of Illinois thereafter filed a motion to dismiss and a judgment order was entered by the Circuit Court of Bureau County on April 29, 1977 dismissing the case. A copy of the order as attached and marked Exhibit A. The trial court in that order stated that the limitation of $25,000 was a violation of due process and equal protection contrary to the United States Constitution, but further held that it was required to follow the opinion of the Illinois Supreme Court in the case of *Siefert* v. *Standard Paving Co.,* 64 Ill. 2d 109, 355 N.E. 2d 537 (1976).

An appeal was then perfected to the Appellate Court of Illinois, Third District. In the brief and argument of the appellant, the question of the Constitutionality of the maximum limitation in regard to the United States Constitution was presented by the appellant. On January 30, 1978, the Appellate Court of Illinois filed its opinion appended as Exhibit B stating that the sole issue presented for review was the unconstitutionality of the limitation on the basis of the due process and equal protection clauses of the Constitution of the United States. In addition to the *Siefert* decision, the Appellate Court cited two other Illinois Supreme Court cases, *Mora* v. *State of Illinois,* 68 Ill. 2d 223, 369 N.E. 2d 868 (1977) and *Williams* v. *Medical Center Commission,* 60 Ill. 2d 389, 328 N.E. 2d 1 (1975).

To properly understand the attitude of the Illinois Supreme Court in this matter, it is necessary to review this trio of opinions of the Supreme Court of Illinois. In the 1977 decision of *Mora* v. *Illinois,* the Illinois Supreme Court stated:

> Before taking up the legal obligations of the other defendants, we dispose of the suit against the State. Illinois law requires tort claims against the State to be pursued in the Court of Claims. (Ill. Rev. Stat. 1975, ch. 37, par. 439.8; ch. 127, par. 801.) Plaintiffs contend that those provisions are invalid under the equal protection and due process clauses of the Federal Constitution. Within the space of two years this court has twice rejected that contention. (See *Williams* v. *Medical Center Com.* (1975), 60 Ill. 2d 389; *Seifert* v. *Standard Paving Co.* (1976), 64 Ill. 2d 109.) We adhere to those decisions, and no further discussion of that issue is necessary. The dismissal of the State from this action is affirmed.

In the 1976 *Siefert* decision of the Illinois Supreme Court, the validity of the whole Illinois Court of Claims Act, of which the maximum limitation provision complained of in this cause is a part, was placed in issue. Contentions were made by plaintiffs in six separate negligence actions later consolidated into one proceeding that the Act was in violation of the federal constitution. The trial court in Cook County held that the Act was unconstitutional.

The Illinois Supreme Court carefully considered the federal constitutional questions in detail and upheld the validity of the Act. The maximum limitation contained in the Act (at that time $100,000) was specifically held to be constitutional. A copy of the full *Siefert* opinion is attached as Exhibit H. Based on these three Illinois Supreme Court cases, the Appellate Court affirmed the dismissal of this case.

The appellant in this cause next filed a petition for leave to appeal to the Supreme Court of Illinois. Again, in this petition the appellant stressed the violations of the federal constitution, specifically citing the then recently decided federal District Court decision, *Carolina Environmental Study Group, Inc.* v. *United States Atomic Energy Commission,* 431 F. Supp. 203 (1977). The *Carolina* decision, later reversed by this Court, held the nuclear accident limitation of $560,000,000 repugnant to the United States Constitution. The petition for leave to appeal in this cause was denied by the Illinois Supreme Court on May 26, 1978, presumably on the same basis of the trio of cases previously cited.

REASONS FOR CONSIDERATION

In the accident of September 30, 1970, Amalia Torres sustained serious and permanent injuries. She fractured her right hip, right leg and left wrist, and received a severe blow to the head.

She has not been able to walk by herself since the accident and sustained a brain stem injury involving the cranial nerves 3, 4, and 5. She is generally bedridden and her legs have atrophied from not walking. Her treating doctor testified that she is a paraplegic, her physical condition is permanent and progressive, and her brain damage is permanent. He further testified she would always be unable to dress, walk, or feed herself.

In a separate proceeding in the Court of Claims required by the law of Illinois, the State of Illinois has been found liable for these injuries. The Court of Claims approved an award of $25,000, the maximum amount allowed by Illinois law at the time of the occurrence.

In this case a substantial federal question is involved, i.e. whether the maximum limitation of $25,000 is in violation of the due process and equal protection clauses of the federal constitution. In the United States Constitution, Amendments V and XIV, § 1, it is provided that no one shall be depried of life or property by anyone, including any State, without due process of law. In addition, Amendment XIV provides that no person may be denied equal protection of the laws.

Under the United States Constitution, no State may legislate unreasonable classifications, particularly in refer-

ence to the objective of the classification. In *Eisenstadt* v. *Baird,* 405 U.S. 438 (1972), the United States Supreme Court stated:

> . . . The basic principles governing the application of the Equal Protection Clause of the Fourteenth Amendment are familiar . . . "In applying that Clause, this court has consistently recognized that the Fourteenth Amendment does not deny to States the power to treat different classes of persons in different ways . . . The Equal Protection Clause of that Amendment does, however, deny to States the power to legislate that different treatment be accorded to persons placed by a statute into different classes on the basis of criteria wholly unrelated to the objective of that statute. A classification "must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." . . .

Furthermore, in *Dunn* v. *Blumstein,* 405 U.S. 330 (1972), this Court stated:

> . . . To decide whether a law violates the Equal Protection Clause, we look in essence to three things: the character of the classification in question; the individual interests affected by the classification; and the governmental interests asserted in support of the classification . . .

There is no reasonable objective ground for the State to classify a limitation on damages for torts of the State as compared with torts of anyone else. The old argument of a limitation on damages preventing financial chaos has been thoroughly discredited. The lack of the limitation has not produced financial chaos for the United States Government, the many States who have abolished sovereign immunity completely, and the municipalities, school districts, and park districts of Illinois.

As stated by the trial court, the limitation of $25,000, is arbitrary and unreasonable, and a violation of the provisions of the federal constitution. In regard to due process, Amalia Torres has been deprived of just and reasonable redress to compensate for her injuries which resulted from the negligence of the State of Illinois. The recovery has no reasonable relationship to her loss.

In regard to equal protection, the statute in question arbitrarily classifies and unreasonably discriminates against Amalia Torres, who is seriously and permanently injured and has sustained damage far in excess of $25,000, while compensating in full those individuals whose tort damages are admittedly less than $25,000. Obviously, tort claimants against the State of Illinois have been treated differently than other tort claimants, for no legitimate public purpose.

Curiously, in the *Siefert* decision the Illinois Supreme Court ignored a line of Illinois Supreme Court cases holding unconstitutional many arbitrary limitations. In the case of *Treece* v. *Shawnee Community Unit School District No. 84,* 39 Ill. 2d 136, 233 N.E. 2d 549 (1968), the court held that the $10,000 limitation for recovery under the School Tort Liability Act was unconstitutional. In the case of *Harvey* v. *Clyde Park District,* 32 Ill. 2d 60, 203 N.E. 2d 573 (1964), the same court held that an arbitrary limitation of $10,000 for damages resulting from the negligence of a park district was unconstitutional.

In the case of *Haymes* v. *Catholic Bishop of Chicago,* 41 Ill. 2d 336, 243 N.E. 2d 203 (1968), the arbitrary limitation of $10,000 for tort recovery as a result of the negligence of a private school was held unconstitutional. Lastly, in the case of *Wright* v. *Central DuPage Hospital Association,* 63 Ill. 2d 313, 347 N.E. 2d 736 (1976), the same court

held unconstitutional the limitation of $500,000 in regard to medical malpractice cases. The Illinois Supreme Court clings to the arbitrary State limitation while holding almost all other limitations unconstitutional.

Obviously, the statute complained of in this case unreasonably and irrationally relieves the State of Illinois from responsibility for tort damages in excess of the limitation, even though the limitation does not serve any legitimate public purpose. In fact, the whole doctrine of governmental immunity, of which this limitation is a part, has been thoroughly discredited in the majority of jurisdictions in the United States. *Davies* v. *City of Bath, Maine,* 364 A. 2d 1269 (1976), *Nieting* v. *Blondell, Kansas,* 235 N.W. 2d 597 (1975), *Hicks* v. *State of New Mexico,* 88 N.M. 588, 544 P. 2d 1153 (1975), *Ayala* v. *Philadelphia Board of Public Education, Penn.,* 305 A. 2d 877 (1973), *Board of Commissioners of the Port of New Orleans* v. *Spledour Shipping and Enterprises Co., Inc., La.,* 273 So. 2d 19 (1973), and *Muskopt* v. *Corning Hospital Dist.,* 55 Cal. 2d 211, 359 P. 2d 457 (1961).

No more telling reason for the abolition of governmental immunity can be given than that stated by the Illinois Supreme Court in abolishing school district immunity in the case of *Molitor* v. *Kaneland Community Unit School District No. 302,* 18 Ill. 2d 11, 163 N.E. 2d 89 (1959):

> It is a basic concept underlying the whole law of torts today that individuals and corporations are responsible for the negligence of their agents and employees acting in the course of their employment. The doctrine of governmental immunity runs directly counter to that basic concept. What reasons, then, are so impelling as to allow a school district, as a quasi-municipal corporation, to commit wrongdoing without any responsibility to its victims, while any individual

or private corporation would be called to task in court for such tortious conduct?

The original basis of the immunity rule has been called a "survival of the medieval idea that the sovereign can do no wrong," or that "the King can do no wrong" . . . Professor Borchard has said that how immunity ever came to be applied in the United States of America is one of the mysteries of legal evolution . . .

As was stated by one court, "The whole doctrine of governmental immunity from liability for tort rests upon a rotten foundation. It is almost incredible that in this modern age of comparative sociological enlightment, and in a republic, the medieval absolutism supposed to be implicit in the maxim, "the King can do no wrong," should exempt the various branches of the government from liability for their torts, and that the entire burden of damage resulting from the wrongful acts of the government should be imposed upon the single individual who suffers the injury, rather than distributed among the entire community constituting the government, where it could be borne without hardship upon any individual, where it justly belongs."

Maine is the latest State to abolish sovereign immunity in the *Davies* case. The opinion in that case lists twenty-two states which have abolished governmental immunity by judicial decision. The Maine Supreme Court stated:

> Although we recognize that the doctrines of sovereign immunity and municipal immunity appeared in the common law at different times and for different reasons, the injustices occasioned by both doctrines are identical and we treat them alike . . .
>
> No purpose would be served here by restating our reasons for holding that governmental immunity is no longer a rational judicial doctrine . . . Throughout the United States, the doctrine has been so discredited

> that an overwhelming majority of jurisdictions has abolished it either by judicial decision or by statute. When the conditions of society change to such an extent that past judicial doctrines no longer fulfill the needs of a just and efficient system of law, we should not be bound by the constraints of stare decisis. As we noted in *Moulton* v. *Moulton,* 309 A. 2d 224, 228 (Me. 173),
>
> > "'stare decisis' will ultimately become a self-defeating principal if, in functioning to achieve stability in the law, it operated so inflexibly as to deny to judges the power to move ahead amidst the onrushing currents of change in the present when in standing still restrained by the bonds of the past, they must fall behind into a cultural lag of unfairness and injustice."

The doctrine of sovereign immunity has outlived its usefulness. The late Illinois Supreme Court Justice James Dooley in his treatise, *Modern Tort Law,* in Sections 20.01 and 20.03 provides a stinging commentary outlining the history of and the reasons for abolishing governmental tort immunity in general and state immunity in particular. For some reason Illinois clings to the doctrine for no governmental unit other than the State itself.

In addition to being a federal question of substance, this case is a matter of general importance. A number of states have similar statutes limiting the amount of damages recoverable from the state, although none are as oppressive as the State of Illinois. The precise question involved here has never been presented to this Court, although the converse situation was contained in the case of *Duke Power Co.* v. *Carolina Environmental Study Group,* ..... U.S. ....., recently decided on June 26, 1978.

In the *Duke Power* case this Court upheld the constitutionality of the limitation of $560,000,000 contained in the

Price-Anderson Act. However, there are many critical differences between these cases.

In the *Duke Power* case, the limitation was $560,000,000 whereas the limitation in this cause is $25,000. In the *Duke Power* case the amount of damage was conjectural in regard to whether it would exceed the limitation, since no one had been injured; but in this cause, the damages are real and substantially exceed the limitation.

In the *Duke Power* case the limitation of $560,000,000 was not a final limitation, but rather a starting point beyond which the Congress, by specific instruction contained in the Act, would thoroughly review any incident of injury and damage and take appropriate action for relief similar to the Texas City incident. The limitation in this cause is final.

There must be reasonable minimum standards of limitation on damages from a constitutional standpoint. It is the position of the appellant that the State of Illinois has gone far below any reasonable constitutional standard in limiting tort damages to $25,000.

Respectfully submitted,

PAUL PERONA, JR.
Attorney for Appellant

APPENDIX

APPENDIX

EXHIBIT A

STATE OF ILLINOIS)
) In The Circuit Court Thereof
COUNTY OF BUREAU)

ESTABAN TORRES, Conservator of the Estate of Amalia Torres, Incompetent,

Plaintiff,

vs.

STATE OF ILLINOIS,

Defendant.

No. 77-L-8

JUDGMENT ORDER

Defendant's motion to dismiss now coming on for hearing, both parties present by counsel, and the Court being fully advised,

FINDS that the limitation of $25,000.00 in the Illinois Court of Claims Act in force on the date of this occurrence is arbitrary and unreasonable, and a violation of due process and equal protection of laws in regard to the plaintiff in this cause and contrary to the Constitutions of the United States and State of Illinois, 1870 and 1970, all as stated in Amended Paragraph 12 of the complaint filed in this cause, and further

FINDS that this court must follow the opinion of the Illinois Supreme Court in the case of *Siefert* v. *Standard Paving Co.*, 64 Ill. 2d 109, 355 N.E. 2d 537, (1976),

THEREFORE IT IS ORDERED that the motion to dismiss of the defendant is allowed, and judgment is entered on behalf of the defendant and against the plaintiff.

Dated: April 29, 1977

/s/ Howard Wampler
Judge

EXHIBIT B
No. 77-328

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRCT
A. D. 1978

ESTABAN TORRES, Conservator of the Estate of Amalia Torres, Incompetent,

Plaintiff-Appellant,

vs.

STATE OF ILLINOIS,

Defendant-Appellee.

Appeal from the Circuit Court of Bureau County.

Honorable C. Howard Wampler, Presiding Judge.

MR. JUSTICE SCOTT delivered the opinion of the court:

This is an appeal by the conservator of the estate of Amalia Torres, an incompetent, from an order of the circuit court of Bureau County which granted the State of Illinois motion to dismiss the complaint filed on behalf of the incompetent on the grounds that the action was one which properly should be a matter for the court of claims.

On September 30, 1970, Amalia Torres was injured in an automobile accident near Peru, Illinois. As the result of said accident she received injuries which resulted in her becoming both physically and mentally incompetent.

Subsequent to the accident a complaint was filed in the Illinois Court of Claims against the State of Illinois on behalf of Amalia Torres and she was awarded the sum of $25,000, which was the maximum award allowable by the court of claims as of the date of the occurrence.

Subsequent to the court of claims award the conservator of Amalia Torres filed a suit contesting the maximum limi-

tation as to damages allowable in the court of claims. As we have previously stated, the trial court dismissed this action and this appeal ensued.

The sole issue presented for review is whether the award limitation on damages in the court of claims is unconstitutional in that it denies a plaintiff certain constitutional and common law rights.

This precise question is not a new one to a court of review and it has been specifically held that the Court of Claims Act does not deny equal protection to persons who must pursue their remedies only in that court even though their damages exceed the amount of the award allowable. See *Seifert* v. *Standard Paving Co.* (1976), 64 Ill. 2d 109, 355 N.E. 2d 537. In the recent case of *Mora* v. *State of Illinois* (1977), 68 Ill. 2d 223, 369 N.E. 2d 868, our supreme court summarily decided the issue presented in this appeal by calling attention to the fact that the argument to the effect that the provisions of the Court of Claims Act are involved under the equal protection and due process clauses of the Federal Constitution has in the space of two years been twice rejected by that court. Our supreme court then cites the cases of *Williams* v. *Medical Center Commission* (1975), 60 Ill. 2d 389, 328 N.E. 2d 1, and *Seifert* v. *Standard Paving Co.* (1976), 64 Ill. 2d 109, 355 N.E. 2d 537.

The position of our supreme court is so well established concerning the validity of the provisions of the Court of Claims Act that no useful purpose would be served by engaging ourselves in a further dissertation on the subject.

For the reasons set forth the action of the trial court dismissing the suit of Amalia Torres which sought to contest the maximum limitation as to allowable damages in the court of claims is affirmed.

Affirmed.

ALLOY, PJ., and STENGEL, J., concur.

EXHIBIT C

ILLINOIS SUPREME COURT
CLELL L. WOODS, CLERK
Supreme Court Building
Springfield, Ill. 62706
(217) 782-2035

May 26, 1978

Mr. Paul Perona, Jr.
Attorney at Law
Perona & Perona
222 East St. Paul St.
Spring Valley, IL 61362

No. 50587—Estaban Torres, Cons., etc., petitioner, vs. State of Illinois, respondent. Leave to appeal, Appellate Court, Third District.

You are hereby notified that the Supreme Court today denied the petition for leave to appeal in the above entitled cause.

Very truly yours,

/s/ Clell L. Woods
Clerk of the Supreme Court

EXHIBIT D

Ill. Rev. Stat., ch. 37 § 439.8 (1969):

The court shall have exclusive jurisdiction to hear and determine the following matters:

(a) All claims against the state founded upon any law of the State of Illinois, or upon any regulation thereunder by an executive or administrative officer or agency, other than claims arising under the Workmen's Compensation Act or the Workmen's Occupational Diseases Act.

(b) All claims against the state founded upon any contract entered into with the State of Illinois.

(c) All claims against the state for time unjustly served in prisons of this State where the persons imprisoned prove their innocence of the crime for which they were imprisoned; provided, the court shall make no award in excess of the following amounts: for imprisonment of 5 years or less, not more than $15,000; for imprisonment of 14 years or less but over 5 years, not more than $30,000; for imprisonment of over 14 years, not more than $35,000; and provided further, the court shall fix attorney's fees not to exceed 25% of the award granted.

(d) All claims against the State for damages in cases sounding in tort, in respect of which claims the claimants would be entitled to redress against the State of Illinois, at law or in chancery, if the State were suable, and all claims sounding in tort against the Medical Center Commission, the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Regents of the Regency Universities System or the Board of Governors of State Colleges and Universities, provided that an award for damages in a case sounding in tort shall not exceed the sum of $25,000 to or for

the benefit of any claimant. The defense that the State or the Medical Center Commission or the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Regents of the Regency Universities System or the Board of Governors of State Colleges and Universities is not liable for the negligence of its officers, agents, and employees in the course of their employment shall not be applicable to the hearing and determination of such claims.

(e) All claims for recoupment made by the State of Illinois against any claimant.

(f) All claims for recovery of overpayment of premium taxes or fees or other taxes by insurance companies made to the State resulting from failure to claim credit allowable for any payment made to any political subdivision or instrumentality thereof. Any claim in this category which arose after July 16, 1945, and prior to July 11, 1957 may be prosecuted as if it arose on July 11, 1957 without regard to whether or not such claim has previously been presented or determined.

EXHIBIT E

IN THE SUPREME COURT OF THE UNITED STATES

ESTABAN TORRES, CONSERVATOR OF THE ESTATE OF AMALIA TORRES, INCOMPETENT,
Appellant,

vs.

STATE OF ILLINOIS,
Appellee.

From the Supreme Court of Illinois
No. 50587

NOTICE OF APPEAL

Estaban Torres, Conservator of the Estate of Amalia Torres, Incompetent, Appellant, by Perona and Perona, his attorneys, hereby appeals to the Supreme Court of the United States from the judgment order entered in this cause on May 26, 1978, whereby the Supreme Court of Illinois denied the petition for leave to appeal filed in this cause. This appeal is taken pursuant to 28 U.S.C. §1257(2).

ESTABAN TORRES, CONSERVATOR OF THE ESTATE OF AMALIA TORRES, INCOMPETENT, Appellant,
By: /s/ *Paul Perona, Jr.*
one of his attorneys

EXHIBIT F

STATE OF ILLINOIS)
) In The Circuit Court Thereof
COUNTY OF BUREAU)

ESTABAN TORRES, Conservator of the Estate of Amalia Torres, Incompetent,

Plaintiff,

vs.

STATE OF ILLINOIS,

Defendant.

No. 77-L-8

COMPLAINT AND JURY DEMAND

Now comes ESTABAN TORRES, Conservator of the Estate of Amalia Torres, Incompetent, by Perona and Perona, his attorneys, complaining of the defendant and stating:

1. That on or about the 30 day of September, 1970, at about the hour of 8:30 o'clock a.m., Barbara K. Barotta was driving a 1966 Ford passenger automobile in a westerly direction on Illinois Route No. 29 at about one and one-half miles East of DePue, in the County of Bureau and State of Illinois.

2. That at the same time Estaban Torres was driving a motor vehicle in an easterly direction on the said route and Amalia Torres was a passenger in his vehicle.

3. That at the aforesaid time and place, there were unnatural accumulations of water standing in excessive amounts upon said Illinois Route No. 29, which highway was under the control of the defendant, State of Illinois.

4. That at the time of the injurious occurrence hereinafter described and immediately prior thereto, Amalia Torres was in the exercise of due care and caution for her own safety and the safety of others upon said highway.

5. That for a long time prior to the occurrence herein complained of, the defendant negligently maintained and controlled said highway so that as a direct and proximate result thereof, the vehicle driven by Barbara Barotta was caused to go out of control and into the path of the vehicle driven by Estaban Torres, and Amalia Torres was greatly injured as hereinafter alleged.

6. That the defendant, by and through its agents, servants and employees, than and there committed one or more of the following careless and negligent acts or omissions:

a. Carelessly and negligently maintained and controlled said highway so that it became dangerous and hazardous for vehicles travelling thereon, and in particular, for the vehicle of Barbara Barotta.

b. Carelessly and negligently allowed unnatural accumulations of water in excessive amounts to be and remain upon said highway when it knew or should have known that such negligence would result in injury to others, and in particular Amalia Torres.

c. Carelessly and negligently disregarded numerous complaints regarding the dangerous and hazardous conditions of said highway when it knew or should have known that such disregard and negligence would result in injuries to others, and in particular, Amalia Torres.

d. Carelessly and negligently allowed and permitted said unnatural accumulations of water to be and remain upon said highway for such long periods of time that growth of Algae or moss formed underneath the water on the highway surface causing the surface to become slippery and dangerous to vehicles driving thereon, and in particular, the vehicle of Barbara Barotta.

e. Carelessly and negligently failed to remedy the slippery, hazardous condition of the highway thereby causing the pavement thereof to become uneven and defective when it knew or should have known that such failure would result in injury to persons using said highway, and in particular, Amalia Torres.

f. Carelessly and negligently failed to post any warning signs or signals whatever in the area, cautioning motorists driving upon said highway of the dangerous and hazardous condition of said highway.

g. Carelessly and negligently failed to place barricades in the dangerous and hazardous area of the highway.

h. Carelessly and negligently failed and neglected its duty in the proper maintenance and control of said highway when in the exercise of reasonable care it knew or should have known that such failure and negligence would result in injury to persons using said highway, and in particular, Amalia Torres.

7. That by means of and as a proximate result of the negligence of the defendant, Amalia Torres was seriously and permanently injured in her right hip, pelvis, head, right wrist and other parts of her body; that she sustained serious and permanent brain damage as a result of this accident; that she suffered, now suffers, and will in the

future suffer great bodily pain and injury and mental anguish; that she has expended and will in the future expend large sums of money for medical expenses in endeavoring to be cured of her injuries; that she has lost and now loses, and will in the future lose large sums of money by reason of being unable to follow her usual occupation as a result of her injuries; that she has been damaged in the sum of $1,000,000.00.

8. That the said Amalia Torres has been incompetent since September 30, 1970, the date of the accident, due to the injuries sustained in the said occurrence.

9. Estaban Torres is the duly appointed conservator of the Estate of Amalia Torres, and a certified copy of the letters of appointment is attached hereto and marked as Exhibit A.

10. That on September 25, 1972, a complaint was filed in the State of Illinois Court of Claims against the defendant, by the plaintiff, in regard to the said injuries pursuant to the allegations previously contained in this complaint.

11. That on July 28, 1976, an award was entered on behalf of the plaintiff and against the defendants in the amount of $25,000.00, the maximum award allowable pursuant to the Illinois Court of Claims Act in force on the date of the occurrence; that as part of its opinion in making the said award, the court unanimously stated:

> As appears in the record, the abstract, and in claimant's brief, Mrs. Torres suffered major, permanent injuries. Her medical expenses alone were $13,328.08 . . . the testimony . . . establish(es) that from the date of the accident, Mrs. Torres has been both mentally and physically incompetent . . .

The preponderance of the evidence established that Amalia Torres has been incompetent since September 30, 1970 because of the injuries she sustained in the accident.

12. That the maximum limitation on damages in the Court of Claims Act is grossly inadequate in this cause; that the said limitation is in violation of the constitutional rights of the plaintiff as contained in the United States Constitution, Fifth and Fourteenth Amendments, and the Illinois Constitution, Article I § Two, and a violation of due process and equal protection of the law.

WHEREFORE, Plaintiff requests that this cause be submitted for trial on the issue of damages alone and demands judgment in an amount in excess of $25,000.00.

PLAINTIFF DEMANDS TRIAL BY JURY
ESTABAN TORRES, Conservator
of the Estate of Amalia Torres,
Incompetent,
By: /s/ *Paul Perona, Jr.*
One of his attorneys

EXHIBIT G

STATE OF ILLINOIS)
) In The Circuit Court Thereof
COUNTY OF BUREAU)

ESTABAN TORRES, Conservator of the Estate of Amalia Torres, Incompetent,

Plaintiff,

vs.

STATE OF ILLINOIS,

Defendant.

No. 77-L-8

AMENDED PARAGRAPH 12 OF COMPLAINT

Now comes ESTABAN TORRES, CONSERVATOR OF THE ESTATE OF AMALIA TORRES, INCOMPETENT, by Perona and Perona, his attorneys, amending Paragraph 12 of the complaint and stating:

12. That the maximum limitation on damages in the Court of Claims Act is grossly inadequate in this cause; that the said limitation and sovereign immunity should be abolished; that the said limitation is in violation of inherent inalienable common law rights and also constitutional rights of the plaintiff as contained in the United States Constitution, Fifth and Fourteenth Amendments, the Illinois Constitution of 1870, Article II, § 2, and § 19, and Article IV, § 22, and the Illinois Constitution of 1970, Article I, § 2 and § 12, Article IV, § 13, and Article XIII, § IV; the said limitation is a violation of due process, equal protection of the laws, the right to a certain remedy

in the law for all injuries, justice by the law, the prohibition against special legislation, the prohibition against sovereign immunity, and the inherent and inalienable rights of the plaintiff under the common law.

ESTABAN TORRES, Conservator
of the Estate of Amalia Torres,
Incompetent,
By: */s/ Paul Perona*
One of his attorneys

EXHIBIT H

Diane M. SEIFERT, Appellee,

v.

STANDARD PAVING CO. et al.
Appeal of the STATE of Illinois.
Supreme Court of Illinois.
Sept. 20, 1976.

WARD, Chief Justice:

This appeal concerns six separate negligence actions brought in the circuit court of Cook County in which the State of Illinois was named as a defendant. The State filed a motion in each case to dismiss the complaint on the ground that persons injured through the negligence of agents or employees of the State can seek relief only in the Court of Claims. The trial court denied the motions and held that the Court of Claims Act (Ill.Rev.Stat. 1973, ch. 37, par. 439.1 through 439.24-9; Ill.Rev.Stat. 1973, ch. 127, par. 801) violated the equal protection and due process clauses of both the United States (U.S. Const., amend. XIV) and the Illinois (Ill. Const. 1970, art. I, sec. 2) constitutions. The court, under Rule 308(a) (58 Ill.2d R. 308 (a)), found that its orders involved "questions of law as to which there is substantial ground for difference of opinion," and that an immediate appeal might "advance the ultimate termination of the litigation." The appellate court granted the State's petition for leave to appeal, and the six cases were consolidated for argument and decision. The appeal was later transferred to this court under our Rule 302(b) (58 Ill.2d R. 302(b)).

The plaintiffs contend that persons injured by negligence of employees or agents of the State are denied equal protection of the laws in that they are confined for redress to the Court of Claims, while persons injured by the negligence of persons other than the State are allowed to bring suit in a circuit court. They urge here that there is no rational basis for distinguishing between these two classes of injured people and point out that under the Court of Claims Act an injured party does not have a right to a jury trial, or a right to appeal from a decision of the Court of Claims and any recovery is limited to $100,000.

It was after the trial court here had concluded that the Court of Claims Act violated the equal protection and due process clauses of the constitutions that this court in *Williams* v. *Medical Center Com.*, 60 Ill.2d 389, 328 N.E.2d 1 rejected contentions similar to those the plaintiffs make. The plaintiffs, however, claim that *Williams* does not have a foreclosing effect on their position and contend that in *Williams* this court decided only that section 4 of article XIII of the Constitution of 1970 ("Except as the General Assembly may provide by law, sovereign immunity in this State is abolished") did not deny equal protection of the laws to persons injured by negligence attributable to the State. They say their position is that the procedure adopted by the State under the Court of Claims Act for the consideration and allowance of claims of injured persons violates the equal protection clauses of both the Illinois and United States constitutions.

What this court did hold in *Williams* was that a State medical commission was an arm of the State and that an action in tort against it was precluded by the statute providing (as the Constitution of 1970 authorizes) that the State shall never be made a defendant or a party in any court except as is provided for in the Court of Claims Act.

(Ill.Rev.Stat. 1973, ch. 127, par. 801.) The court there rejected the contention that this immunity was invalid under the equal protection clauses of the constitutions of the United States and of Illinois. The court said in part:

> "The plaintiff also contends, however, that even though the immunity of the Commission from an action of this kind is thus authorized, that immunity is invalid under the equal protection clauses of the constitutions of Illinois and of the United States. At the outset of our discussion of this contention, we wish to emphasize that we are not concerned with the wisdom of section 4 of article XIII of the Constitution of 1970 or of the statutes here involved. Our views with respect to the immunity of local governmental units were stated in *Molitor* v. *Kaneland Community Unit District No. 302* (1959), 18 Ill.2d 11, 163 N.E.2d 89; *Harvey* v. *Clyde Park District* (1964), 32 Ill.2d 60, 203 N.E.2d 573, and many other opinions. See *Sweney Gasoline & Oil Co.* v. *Toledo Peoria & Western R. R. Co.* (1969), 42 Ill.2d 265, 247 N.E.2d 603; *Hutchings* v. *Kraject* (1966), 34 Ill2d 379, 215 N.E.2d 274; *Lorton* v. *Brown County Community Unit School District No. 1* (1966), 35 Ill.2d 362, 220 N.E.2d 161.
>
> Those decisions, however, did not involve the sovereign immunity of the State or the validity of the Court of Claims Act, questions which were thoroughly threshed out in the recent constitutional convention. The present language of section 4 of article XIII—'Except as the General Assembly may provide by law, sovereign immunity in this State is abolished'—was adopted only after the defeat of an amendment which would have limited the power of the General Assembly to the provision of a special forum, and would have eliminated its authority to restrict the right of trial by jury and to impose time limitations and limitations upon the amount of recovery. (5 Record of Proceedings, Sixth Illinois Constitutional Convention 3948-3952.) In our opinion the contention of the plaintiff

> is without merit. A constitutional grant of immunity to a sovereign government has never, so far as we are aware, been held to be an arbitrary classification which violates equal protection." 60 Ill.2d 389, 394-95, 328 N.E.2d 1, 3.

There is no doubt the law need not treat all persons alike for all purposes. Illustrating this and also the requirement for a proper classification we said in *Davis* v. *Commonwealth Edison Co.,* 61 Ill.2d 494, 497, 336 N.E.2d 881:

> "There is no question that the legislature may establish classifications, for 'perfect uniformity of treatment of all persons is neither practical nor desirable.' [Citation.] A classification, however, cannot be arbitrary or unreasonable. It must be based on a rational difference of condition or situation existing in the persons or the objects upon which the classification rests. [Citations.]"

It is clear in *Williams* that a "constitutional grant of immunity to a sovereign government" does not create an arbitrary classification for purposes of the equal protection clause. (60 Ill.2d 389, 394-95, 328 N.E.2d 1, 3.) Thus, the General Assembly may classify or distinguish between persons injured by agents and employees of the State and persons injured by others. We think it obvious, therefore, that the State may establish a body and procedure to consider claims which may be submitted by injured persons without any violation of the equal protection clauses of the Constitution of the United States or the Constitution of Illinois. Further, as will be shown, we consider the procedures the legislature did provide do not offend constitutional guaranties.

[1] Before turning to these complaints of the plaintiffs as to certain procedures of the Court of Claims Act, we will consider an equal protection question which, though not formally an issue or point in their brief, is raised in

several places. In Illinois, units of local government may be held liable in most instances (see, *e. g., Arnolt* v. *City of Highland Park,* 52 Ill.2d 27, 282 N.E.2d 144) for tortious acts of their agents. An injured party may proceed against the local governmental body in the circuit court with the right to jury trial, the right to appeal and the right to full compensation for his damages. (Ill.Rev.Stat. 1975, ch. 85, pars. 1-101 through 9-107.) The plaintiffs say that there is no basis for distinguishing between persons injured by the State and persons injured by units of local government, citing *Harvey* v. *Clyde Park District,* 32 Ill.2d 60, 203 N.E. 2d 573, in support of their position. They say: "All of these rights [*e. g.,* right to a jury trial] are denied plaintiffs, not because tortious acts of the goverrnmental functions are different, but solely because the governmental agent is denominated a State agent rather than of a municipality or a park district or a county, or what have you." We consider, however, that there is a rational basis for separately classifying those injured by agents or employees of the State and the classification does not deny the plaintiffs equal protection of the law.

Contentions similar to those made by the plaintiffs have recently been rejected in three other jurisdictions. (*Brown* v. *Wichita State University* (1976), 219 Kan. 2, 547 P.2d 1015; *Sousa* v. *State* (1975), 115 N.H. 340, 341 A.2d 282; *Krause* v. *State* (1972), 31 Ohio St.2d 132, 285 N.E.2d 736, 60 Ohio Op.2d 100.) The Supreme Court of Kansas in *Carroll* v. *Kittle* (1969), 203 Kan. 841, 457 P.2d 21, abolished its judicially created doctrine of governmental immunity for negligence. Subsequently, the Kansas legislature enacted statutes which prohibited suits against the State but which left units of local government open to be sued and held liable for negligence. (Kan.Stat.Ann. sec. 46-901 *et seq.*) The court in *Brown* was called upon to de-

termine whether these statutes denied equal protection of the laws by "discriminating between the various levels of governmental tort-feasors by imposing liability based on the *unit* of government involved." (219 Kan. 2, 14, 547 P.2d 1015, 1025.) The court in upholding the legislation said:

> "But withholding a legal remedy for persons injured by the state, while allowing remedy for a nongovernmental tortious activity, or a municipal government's tortious activity, is not discriminatory governmental action. (*Krause* v. *State,* 31 Ohio St.2d 132, 145, 285 N.E.2d 736 [1972], appeal dismissed for want of a substantial federal question, 409 U.S. 1052, 93 S. Ct. 557, 34 L.Ed.2d 506, reh. denied, 410 U.S. 918, 93 S.Ct. 959, 35 L.Ed.2d 280; *Hutchinson* v. *Board of Trustees of Univ. of Ala.,* 288 Ala. 20, 25, 256 So.2d 281 [1971]; and *O'Dell* v. *School District of Independence,* 521 So.2d 403, 409 [Mo. 1975].) The constitution does not require things which are different in fact or opinion to be treated in law as though they were the same. (*Tigner* v. *Texas,* 310 U.S. 141, 147, 60 S.Ct. 879, 84 L.Ed. 1124, reh. denied, 310 U.S. 659, 60 S.Ct. 1092, 84 L.Ed. 1422.) The Fourteenth Amendment does not deny to states the power to treat different classes of persons in different ways. (*Reed* v. *Reed,* 404 U.S. 71, 75, 92 S.Ct. 251, 30 L.Ed.2d 225.)" 219 Kan. 2, 14, 547 P.2d 1015, 1025-26.

The *Brown* court considered that three interests of the State were protected by the legislation and that these interests justified the classifications: "First, is the necessity to protect the state treasury. * * * Second, governmental immunity enables government to function unhampered by the threat of time and energy consuming legal actions, which would inhibit the administration of traditional state activities. * * * Third, governmental immunity affords that degree of protection demanded by the numerous administrative and high-risk activities undertaken by the various governments." (219 Kan. 2, 16-17, 547 P.2d 1015, 1027-28.) The argument can be made, of course, and it has been made, that the justifications for classifying separately those injured by the State are equally applicable in cases involving units of local government. In *Sousa* v. State (1975), 115 N.H. 340, 345, 341 A.2d 282, 285-86, the Supreme Court of New Hampshire rejected that contention, stating:

> "[S]tate immunity for torts involves certain factors not present in the immunity of cities and towns. By its magnitude the striking of a balance between granting relief to injured claimants and protecting the solvency of the State is a more complex problem at that level than it is for most cities and towns. Extremely broad considerations of public policy and government administration are involved."

The first complaint of the plaintiffs as to procedure under the Court of Claims Act is that the $100,000 limit on what may be allowed on a personal injury claim discriminates against persons injured by negligent agents or employees of the State whose damages are in excess of $100,000. We consider that this court's decision in *Hall* v. *Gillins,* 13 Ill.2d 26, 147 N.E.2d 352, meets this objection. In *Hall,* the plaintiffs challenged the validity of the provision of the Wrongful Death Act which limited recovery to $25,000. (Ill.Rev.Stat. 1957, ch. 70, par. 2.) They contended that it violated section 19 of article II of the Constitution of 1870 [now section 12 of article I of the Constitution of 1970], which provided that "Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property or reputation; * * *." This court, after observing that at the common law there was no cause of action for wrongful death, said:

> "In our opinion the constitutional question is not formidable when it is considered in the context of the situation that existed when the statute was originally enacted. At that time no action whatsoever was permitted for a wrongful death. The legislature took away no right when it enacted the statute. It created both the right and the remedy, and we think that its power to limit the maximum recovery in the action that it created can not be questioned." (13 Ill.2d 26, 29, 147 N.E.2d 352, 354; see also *Cunningham* v. *Brown,* 22 Ill.2d 23, 174 N.E.2d 153.)

The situation here is comparable. There had not been in Illinois a right to sue the State for the negligent acts of its agents. Claims against the State have been allowed only when the General Assembly has provided for it. (6 Record of Proceedings, Sixth Illinois Constitutional Convention 645-54.) Since the General Assembly provided for both the right and the remedy when it enacted the Court of Claims Act, it was within its judgment to limit the maximum which might be allowable. See also *Wright* v. *Central Du Page Hospital Association,* 63 Ill.2d 313, 325-30, 347 N.E.2d 736.

We are not convinced by the plaintiffs' argument that they have a right to trial by jury, for which the Court of Claims Act does not provide. Section 13 of article I of the Constitution of 1970 provides that: "The right of trial by jury as heretofore enjoyed shall remain inviolate." In *City of Monmouth* v. *Pollution Control Board,* 57 Ill.2d 482, 313 N.E.2d 161, the city had argued that it had a right to a trial by jury in proceedings before the Pollution Control Board. This court rejected the contention, stating: "The constitutional guarantee that 'the right to trial by jury as heretofore enjoyed shall remain inviolate' (Ill. Const. (1970), art. I, sec. 13) has been consistently interpreted by this court as inapplicable to special or statutory

proceedings unknown to the common law. See *People ex rel. Keith* v. *Keith,* 38 Ill.2d 405, 231 N.E.2d 387." (57 Ill. 2d 482, 485, 313 N.E.2d 161, 163.) The Court of Claims Act is a statutory proceeding unknown to the common law. Persons presenting claims to the Court of Claims, therefore, have no right to trial by jury.

[2] There are other equal protection complaints by the plaintiffs and a series of contentions that the Court of Claims Act denies due process. They say they are denied equal protection because they do not have a right to cross-examine or subpoena witnesses, and because they are required by section 25 of the Court of Claims Act (Ill.Rev. Stat. 1975, ch. 37, par. 439.24-5) to pursue all "other remedies and sources of recovery" before seeking a final determination of their claims. The Court of Claims Act denies them due process of law because they do not have a right to a jury trial, a right to appeal or a right to subpoena or cross-examine witnesses. Due process is also denied, they argue, because they must pursue all other remedies before their claims are finally determined and because their recovery is limited to $100,000. We do not find these contentions convincing. The fault with the plaintiffs' argument is that it is bottomed on the assumption that proceedings in the Court of Claims must be conducted as proceedings in a court of law. Manifestly this is not true; proceedings before the Court of Claims are not adversary in nature, and they are not designed to provide a trial. The General Assembly in providing for the Court of Claims and in establishing procedures for it intended to provide an orderly process for the presentation and deciding of claims against the State. (*Edelen* v. *Hogsett,* 44 Ill.2d 215, 254 N.E.2d 435.) There was no intention or necessity that there would be a trial at law to determine whether a claim would be allowed. The procedures in the Court of Claims are inherently different from those in the circuit court be-

cause the Court of Claims serves an entirely different function. The plaintiffs have not established grounds for holding that the Court of Claims denies them equal protection or due process.

Another argument of the plaintiffs is that the Court of Claims Act violates the judicial article (Ill.Const. 1970, art. VI) and the separation of powers provision (Ill.Const. 1970, art. II, sec. 1) of the Constitution of Illinois. They contend that the Court of Claims is not a court within the meaning of the judicial article. However, they say it is performing a judicial function when it considers and resolves claims brought against the State, and is thus acting in violation of article II, section 1, which provides: "The legisaltive, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another."

[3, 4] There is no doubt that the Court of Claims is not a court within the meaning of the judicial article. Section 26 of article IV of the Constitution of 1870 provided that the State could not be made a defendant in a court of law or equity. Consequently, under the Constitution of 1870 the General Assembly could not allow claims against the State to be heard in the courts. (See 6 Record of Proceedings, Sixth Illinois Constitutional Convention 654-55.) It was for this reason that the General Assembly established the body called the Court of Claims in 1903. It was obviously not to be a court of law, but rather a body to receive and process in an orderly manner claims which might be made against the State.

[5] We have no doubt that the Court of Claims Act does not violate the separation of powers provision of the Constitution of Illinois. On that provision, we recently stated:

> "The separation of powers doctrine does not contemplate the division of powers of government into rigidly separated compartments. This court has held that the doctrine was not designed to achieve a complete divorce among the three branches of government. (*People* v. *Reiner*, 6 Ill.2d 337, 342, 129 N.E.2d 159.) The true meaning, in theory and in practice, of the doctrine is that the whole power of two or more of the branches of government shall not be lodged in the same hands. *City of Waukegan* v. *Pollution Control Board*, 57 Ill.2d 170, 174, 311 N.E.2d 146; *Hill* v. *Relyea*, 34 Ill.2d 552, 557, 216 N.E.2d 795; *Field* v. *People ex rel. McClernand*, 3 Ill. (2 Scam.) 79, 83." *In re Estate of Barker*, 63 Ill.2d 113, 119, 345 N.E.2d 484, 487-488; see also *People* v. *Farr*, 63 Ill.2d 209, 347 N.E.2d 146.

We cannot see how the Court of Claims Act is in conflict with section 1 of article II of the present constitution. Under the Constitution of 1870 no court could entertain claims brought against the State. The Court of Claims was established by the legislature, as we have said, simply to receive and process in an orderly manner claims which might be addressed to the State. It was not to function as a court and adjudicate cases. There was no encroachment upon courts of law by its establishment. Under the Constitution of 1970 the General Assembly has authority, we consider, to provide for the filing and resolving of claims against the State. Section 4 of article XIII does not require that the legislature must provide that any claims against the State be prosecuted in the circuit court or other court of law.

For the reasons given, the judgments of the circuit court of Cook County are reversed.

Judgments reversed.